

Message Text

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TAGS: CARR, CO
SUBJ: LEGAL REPRESENTATION AVAILABLE TO AMERICANS ARRESTED ABROAD

REF: STATE 147704

DEPARTMENT FOR SCS

1. PUBLIC DEFENDER LEGAL COUNSEL IS AVAILABLE TO BOTH FOREIGN AND NATIONAL PRISONERS IN THE MEDELLIN CONSULAR DISTRICT WHEN THEY ARE UNABLE TO FUND PRIVATE COUNSEL. UNDER COLOMBIAN LAW JUDGES ARE EMPOWERED TO APPOINT COUNSEL FROM LAWYERS REGISTERED TO PRACTICE IN THEIR JURISDICTIONS.

2. AS PUBLIC DEFENDERS MUST BE LICENSED TO CONDUCT PRIVATE PRACTICE THE QUALITY OF THEIR ASSISTANCE IS COMPARABLE TO THAT AVAILABLE THROUGH PRIVATE CHANNELS.

3. THIS POST'S EXPERIENCE WITH PUBLIC DEFENDERS HAS BEEN LIMITED AS MOST AMCIT ARRESTS IN RECENT YEARS HAVE BEEN NARCOTIC-RELATED AND NEARLY ALL ARRESTEES HAVE HAD FUNDS FOR PRIVATE COUNSEL. IN ONE RECENT (APRIL 1977) NARCOTICS CASE INVOLVING THREE AMCITS, A PUBLIC DEFENDER WAS APPOINTED BY THE INVESTIGATING JUDGE DURING THE INITIAL COURT HEARINGS. THE AMERICANS, ONE OF WHOM HAD BEEN PREVIOUSLY ARRESTED IN SANTA MARTA, COLOMBIA, EXPRESSED THEIR
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WISH TO HIRE THE ATTORNEY WHO REPRESENTED THEIR COMPANION AND GAINED HIS RELEASE TWO MONTHS PREVIOUS. THE SANTA MARTA ATTORNEY WAS CONTACTED BY THIS POST BUT FAILED TO APPEAR TO REPRESENT THE AMERICANS AS REQUESTED. THE COURT-APPOINTED LAWYER WAS SUBSEQUENTLY HIRED BY THE AMERICANS AND CHARGES AGAINST ALL THREE WERE DROPPED WITHIN A MONTH. A 3,300 DOLLAR PROMISSORY NOTE FOR LEGAL SERVICES WAS SIGNED BY THE AMERICANS, WHO DEPARTED COLOMBIA FOR THE UNITED

STATES SHORTLY AFTER THEIR RELEASE, AND TO DATE HAVE NOT MADE ANY CASH PAYMENT TO THE ATTORNEY.

4. AS ILLUSTRATED ABOVE, MANY ARRESTS IN THE MEDELLIN DISTRICT INVOLVE NARCOTIC TRAFFICKING IN COMMERCIAL QUANTITIES AND FUNDS FOR LEGAL FEES ARE NORMALLY AVAILABLE THROUGH PRIVATE CHANNELS. THESE TYPE CASES ARE FINANCIALLY ATTRACTIVE TO LOCAL LAWYERS AND, IN THE ABOVE CASE, IT IS THIS POST'S UNDERSTANDING THAT THE COURT-APPOINTED ATTORNEY WAS GIVEN THE CASE BECAUSE OF PERSONAL FRIENDSHIP WITH THE JUDGE AND BECAUSE OF THE POTENTIALLY LUCRATIVE FEE.

SMITH

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